

### **REMARKS/ARGUMENTS**

Applicant thanks the Examiner for his careful review of this application. Claims 1-3, 7-10, 14-17, and 21-26 have been rejected. Claims 1-3, 7-10, 14-17, and 21-26 have been amended. Claims 27 and 28 have been added. Support for the amendments to Claims 1, 8, 15, and 27 can be found, among other places, in the present application at pages 15, 17-18, and figures 4, 5, 9 and 11. Applicant respectfully requests reconsideration of the application in view of the above amendments and the following remarks submitted in support thereof.

#### **Discussion of Rejection of Claim 15 Under 35 U.S.C. § 101**

In Section 3 of the Office Action, the Examiner rejected Claim 15 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

As kindly suggested by the Examiner, Claim 15 has been amended to include the term “computer-readable storage media.” Thus, Applicant respectfully requests that the Examiner withdraw the § 101 rejection for Claim 15.

#### **Discussion of Obviousness Rejections Under 35 U.S.C. § 103(a)**

In Section 6 of the Office Action, Claims 1-3, 7-10, 14-17 and 21-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,848,106 to Hipp, in view of VMware (“Technical White Paper” – February 1999).

The Examiner’s rejection is respectfully traversed. Hipp and VMware do not alone, or in combination, teach or suggest including a file system view in a virtual namespace where the file system view provides a capsule with a private view of an underlying shared file system, as

recited in the claimed invention. Rather, Hipp teaches creating a snapshot image of a running application including data and state information, and restoring a running application from the snapshot image. See Hipp at Col. 1:21-24. Hipp further teaches that the snapshot image is created/restored from a snapshot virtual template which is automatically constructed as the application is running (and before a snapshot is taken) by encoding a system resource (file, memory, semaphore, socket, handle, etc.) in the application's virtual template for every new request made by the application for a system resource. See Hipp at Col. 7:55-62; Col. 8:25-29.

Hipp then teaches in FIG. 8 that such encoding is conducted on a system source by system resource basis by classifying each system resource into a particular type (shared, non-shared, modifiable, system-wide unique, network-wide unique, etc.) so that when an instance of the system resource is cloned the correct action can be taken for the system resource. See Hipp at Col. 8:52-54. In particular, Hipp teaches that irrespective of whether the system resource is a sharable resource or a non-sharable resource, the system resource receives on or more of the following encoding designations in a corresponding virtual template that define the manner in which the system resource is subsequently cloned: (1) if the system resource can be modified, it will be marked for duplication or copy-on-write, and further marked for multiplexing, virtualization, or allocation; and (2) if the system resource cannot be modified, it will be marked for multiplexing, virtualization, or allocation. See Hipp at Col. 8:54 – Col. 9:15; Figures 7-8.

VMware, on the other hand, teaches “transparently multiplexing all *hardware resources* into multiple virtual machines, each resembling the *underlying machine*” so that the each virtual machine can “be moved freely among different physical machines.” See VMWare at page 1 (emphasis added). Thus, VMware does not teach those elements missing from Hipp which are recited in the claimed invention.

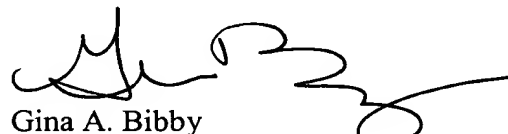
Accordingly, for at least the above-stated reasons, Applicant submits that amended independent Claims 1, 8, and 15 are patentable under 35 U.S.C. § 103(a) over Hipp in view of

VMware. Claims 2-3, 7, 9-10, 14, 16-17, and 21-28, each of which depends directly or indirectly from amended independent Claims 1, 8, and 15, are likewise patentable under 35 U.S.C. § 103(a) over Hipp in view of VMware for at least the same reasons set forth in amended independent Claims 1, 8, and 15. Therefore, Applicant respectfully requests the Examiner to withdraw the § 103 rejection for Claims 1-3, 7-10, 14-17, and 21-26 and allow Claims 1-3, 7-10, 14-17, and 21-28.

### **Conclusion**

In view of the foregoing, the Applicant respectfully submits that all the pending claims 1-3, 7, 8-10, 14, 15-17, and 21-28 are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested. If the Examiner has any questions concerning the present Amendment, the Examiner is requested to contact the undersigned at (408) 774-6920. If any additional fees are due in connection with filing this Amendment, the Commissioner is also authorized to charge Deposit Account No. 50-0805 (Order No. SUNMP584). A duplicate copy of the transmittal is enclosed for this purpose.

Respectfully submitted,  
MARTINE PENILLA & GENCARELLA, L.L.P.



Gina A. Bibby  
Reg. No. 57,407

Martine Penilla & Gencarella, LLP  
710 Lakeway Drive, Suite 200  
Sunnyvale, California 94085  
Telephone: (408) 774-6911  
**Customer Number 32291**